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As Congress' Resol so Did Proposed CI

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They blew taps on Capitol Hill last week for the congressional resolve to "reform" the practices of America's spies and counterspies—a charter for the CIA.

It was more of a belated memorial service than a funeral. More than four years have passed since the Senate Select Committee on Intelligence, headed by Frank Church (D-Idaho), concluded its unprecedented investigations of the nation's intelligence agencies with an uncontested catalogue of illegality, waste and mismanagement in the name of national security.

At the time, the CIA and the FBI seemed to have their backs to the wall. Citing "tactics unworthy of a democracy and occasionally reminiscent of the tactics of totalitarian regimes," the Church committee laid out a record of government lawlessness over a 40-year period under both Democratic and Republican presidents.

The committee's reports mentioned CIA attempts to murder foreign leaders and literally thousands of covert actions carried out without any White House scrutiny.

At home, the reports chronicled a steadily expanding pattern—on the part of both the FBI and the CIA—of invasions of privacy, manipulation of the press and violations of constitutional and statutory rights.

Improprieties were found at every level—sometimes ordered by the White House, sometimes condoned by attorneys general, sometimes conceived by underlings who concealed their misdeeds from their superiors.

The Church reports draw scant mention in Congress these days. It is no longer fashionable to dwell on them. Ever since the investigations closed down, the Senate, and to some extent the House Intelligence committees, have been more concerned, as Sen. Birch Bayh (D-Ind.) recently put

it, with winning "the confidence and trust" of the intelligence agencies.

Last Thursday, the Senate Intelligence Committee gave up on the idea of a charter. But what was buried behind the closed doors of the intelligence committee had little resemblance to the explicit legislative controls and restrictions originally recommended by the Church committee.

The proposed charter for the CIA and the rest of the nation's intelligence community had evolved into a wide-ranging license for spying at home and abroad, legitimizing many of the activities the Church committee had criticized.

The charter fell by the wayside partly because it pleased no one, partly because the political impetus for reform had been lost, partly because

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the subject got caught up in election-year politics.

Sen. Walter D. Huddleston (D-Ky.), the principal sponsor of the charter drive, had still been hoping at midweek to win enactment of a streamlined "mini-charter" in place of the 172-page bill he introduced in February.

But then the Republicans dealt a crucial blow. Senate Minority Leader Howard H. Baker Jr. (R-Tenn.), according to several sources, let it be known that GOP stalwarts did not want any charter legislation to come up on the Senate floor this year.

"It's a bit of election-year politics," said one Senate insider. "The chances are good that there'll be a Republican president next year. Then they can get what they want."

That wishful sentiment fits in perfectly with the preferences of such groups as the 3,000-member Association of Former Intelligence Officers, which has been pressing for a charter that would given the CIA, not tighter controls, but a much stronger hand.

"Whatever you can get [from Congress] today is going to be less effective

sails out of what you might get next year."

On the other side of the fence, civil liberties groups are alarmed over what Congress still might do this year, let alone next. Although he has given up on even a "mini-charter," Huddleston is still pressing for a bill that would give the two congressional intelligence committees statutory oversight authority and at the same time endow the CIA with a greater measure of secrecy.

Huddleston's bill would do that by repealing the two most significant restraints on the CIA, both of them enacted before the 1975-76 investigations took place. One of them is the Freedom of Information Act, which has drawn loud complaints from the CIA ever since the agency was forced to comply with the law under a series of amendments Congress enacted in 1974.

Huddleston's last-ditch proposal would exempt countless CIA documents from disclosure, perhaps even newspaper clippings, which the agency has contended in at least one lawsuit are "intelligence sources." If the CIA has its way, anything withheld under this new FOI exemption will not be subject to court review.

The Huddleston proposal would also limit reports of covert actions and other "significant" intelligence activities to the two intelligence committees. It calls for prior notice of such undertakings, but the rule of advance notification is offset by a proviso that the Carter administration insist upon permitting the executive branch to withhold prior notice under a variety of circumstances.

On paper, at least, those same grounds—such as "due regard for the protection of classified information . . . from unauthorized disclosure"—could also be invoked under the bill to withhold information from Congress about "intelligence activities that are illegal."

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